

to get money from the state. But remember this, if they lose they pay. It is only if they'd win that lawsuit. I am for keeping the system we have, giving the individual citizen the right to go to the court when he thinks he should be able to go to court. But I don't think we should get separation of powers all mixed up. I don't think LB 45, or the other bills that Senator Murphy has, is the solution. They are not the solution. I think that the solution mentioned by Senator De Camp, during the last debate, is the solution.

PRESIDENT: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature. I think this is perhaps one of the most important bills we're dealing with the entire session. I would like to ask a question of Senator Luedtke, if I might. Senator Luedtke, you were talking about something tremendously important, about the separation of the Executive and Legislative Branches. I want to know, even if the Legislature pays for this court suit, is that, in effect,.... I mean, in effect the Legislature is paying for enforcement of the law? In fact, is that an Executive privilege, or is it not? Are there constitutional problems with that?

SPEAKER LUEDTKE: Well I'm going to read you the conclusion of a private opinion. I misspoke, I said Attorney General's opinion, it is an opinion by Arlan Bean to the Legislature when we employed private counsel at one time, last session. The conclusion was "We are of the opinion that the Executive Board does not have authority to direct the Attorney General directly, or through special counsel, to pursue a legal remedy, even if the Board were so inclined". Now by the "Board", that is speaking about us as a Legislature. They were speaking for us at that time. Then there are.... I don't wish to get into all of the opinions, but this particular opinion, which Senator Barnett can supply you with if you want to read the entire opinion. It goes into many court cases. The one that is sighted here, specifically, is Sarah Ann Horacheck versus J. James Exon. It is an interesting case. It goes along this line. I think too, I agree with you, it is a very, very extremely important matter. We ought to be very careful about passing some kind of law that we can't follow through on anyway.

SENATOR CULLAN: One more question, Senator Luedtke. The thing that Senator Lewis mentioned, or alluded to, the Legislature could bring the one branch of government, taking the other branch of government to court is actually what he's proposing, as I understand it.

SPEAKER LUEDTKE: Yes.

SENATOR CULLAN: For us to do that, naturally, would require a constitutional amendment within our own Constitution. Would that be in violation of the federal constitution?

SPEAKER LUEDTKE: Well it could be. I think that you're getting involved in citizens rights. As I say, I don't think we should do anything though to stop the citizen from doing this. Of course, if we don't, even if we pass this sort of thing, but I think the real danger here is that we are forcing a constitutional officer, if we say "Attorney General" you are going to have to now say this bill is constitutional, even though you said it isn't. We are tell-